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STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Laura Wilson, Civil
Service Commission

Classification Appeal

CSC Docket No. 2014-2949

ISSUED: APR 02 2015 (HS)

Laura Wilson appeals the attached decision of the Division of Classification and Personnel Management (CPM),¹ which found that her position with the Civil Service Commission (CSC) is properly classified as a Technical Assistant 1, Civil Service Commission. She seeks a job classification in the Human Resource Consultant band² in this proceeding.

The appellant received a regular appointment to the title of Secretarial Assistant 3 (Non-Stenographic)³ on June 6, 2009. In July 2013, the appellant requested a classification review of her position located in the Employee Advisory Service (EAS), Division of Administration and Training, CSC. It is noted that the appellant initially sought an Administrative Assistant classification. CPM received the request and performed a review of all submitted information and also performed a position audit with the appellant and her supervisor, an Assistant Division Director. In its decision, CPM noted that the EAS provides professional referral services and counseling to State employees dealing with work or non-work related issues that may adversely impact work performance. CPM indicated that the appellant assigns and reviews work performed by two clerical staff members but

¹ CPM is now the Division of Agency Services.

² The appellant specifically seeks a Human Resource Consultant 2 or Human Resource Consultant 3 job classification. It is noted that the Civil Service Commission approved these titles for job banding. See *In the Matter of Job Banding for Human Resource Consultant, Personnel and Labor Analyst, and Test Development Specialist Title Series* (CSC, decided June 2, 2014).

³ Secretarial Assistant 3 (Non-Stenographic) is a range A-15 and Technical Assistant 1, Civil Service Commission is a range Y-17.

does not complete their performance evaluations. CPM's review found that the appellant: assisted with computer issues in the office and with counselor staff when they were in the field; investigated administrative issues and assisted in implementing improvement of office operations, including billing; interacted with CSC's fiscal office to answer billing questions and concerns; interacted with eight affiliate counselors and two EAS counselors; received incoming calls for services which were referred to either EAS counselors or to affiliate counselors, which involved setting up appointments, collecting intake information, making requisite arrangements with the client's employer and verifying that the client's insurance was accepted by the agency to which the client was referred; arranged and met with EAS affiliates annually to provide updates regarding EAS procedures; prepared Requests for Proposals to solicit counseling service providers; interacted with clients whose needs were beyond the services provided by EAS counselors, including "fitness for duty" examinations and substance abuse counseling; interacted with employers seeking to refer clients for counseling services and responded to their questions; and worked with contracts purchased by employers to pay for counseling services provided to employees. CPM stated that the appellant's role was unlike that of a typical "secretary" and appeared to be more technical in nature. CPM further stated that the appellant's work efforts were not geared toward supporting the activities of an organizational manager but rather were geared toward supporting and overseeing an organizational activity, the EAS. Based on the foregoing, CPM found that the appellant's assigned duties and responsibilities were commensurate with the title of Technical Assistant 1, CSC, effective October 5, 2013.⁴

On appeal, the appellant argues that she possesses the qualifications for a professional title and that her position is better classified as a Human Resource Consultant. She avers that accepting the Technical Assistant 1, CSC title would place her near the end of the salary range for that title series and would compel her to request another title within the next year. The appellant also disputes several of CPM's findings and elaborates on her duties. In this regard, she contends that she is being limited to the Technical Assistant 1, CSC title because her supervisor is an Assistant Division Director. She states that she continues to function as the principal assistant to the Office Manager, a role she notes that the Assistant Division Director assumed; assisting counselors with clients whose needs are beyond the services provided during the permitted time given for each case; completes the intake process; performing the intake, assessment and referral process in some instances if a counselor, an affiliate or the Assistant Division Director is not present while seeking assistance if needed prior to making a referral; assisting clients with the processing of disability forms; and troubleshooting issues with the leave process. The appellant argues that she provides more assistance to her supervisor than was indicated in CPM's decision. Specifically, she oversees the newsletter; keeps her supervisor abreast of "office situations;" addresses and

⁴ Agency records indicate that the appellant's title has not been changed.

notifies her supervisor of issues with affiliate counselors' cases; assists with critical incidents and emergency appointments in her supervisor's absence; performs intakes and referrals in some instances; and assists with her supervisor's schedule as needed. Finally, the appellant questions whether she should receive back pay since she stated during her position audit that she was performing these duties prior to the position audit. In support, the appellant submits her Position Classification Questionnaire (PCQ), Performance Assessment Reviews, resume and Bachelor of Science diploma. As additional support, the appellant submits several written comments from her colleagues describing her work. For example, these comments state that the appellant acts as a scheduler, coordinator and office manager; receives and follows up on billing; assists with extensive paperwork; and provides guidance on EAS requirements.

CONCLUSION

The definition section of the job specification for Secretarial Assistant 3 (Non-Stenographic) states:

May be assigned as a secretary to Assistant Division Directors, Bureau Chiefs, or their organizational equivalents; does other related duties.

The definition section of the job specification for Technical Assistant 1, Civil Service Commission states:

Under direction of a supervisory official in the Department of Personnel, performs complex clerical, technical, or paraprofessional functions, and is responsible for a specific unit operation and/or supervises a group of paraprofessional and/or clerical employees; does other related duties as required.

The definition section of the band summary for the job specification for the Human Resource Consultant band states:

A position in the Professional Services Band which conducts organization, classification and compensation surveys and position audits in various assigned jurisdictions, departments and agencies; provides personnel management guidance to State/local jurisdictions; performs personnel work involving selection procedures, personnel information systems, staff and organizational development, workforce planning, equal employment opportunity, employment counseling, and application of rules and regulations; does other related duties as required.

Initially, the appellant contends that her position is being classified as Technical Assistant 1, Civil Service Commission title because of the title her supervisor holds. It is true that the title of Administrative Assistant 3 was rejected, in part, because an Assistant Division Director is not entitled to have a subordinate classified in this title. However, this was not the sole basis for the classification determination. CPM noted in its determination that the purpose of the classification review was to classify the appellant's duties presented on her PCQ and discussed with the appellant and her supervisor. Moreover, it should be noted that the foundation of position classification, as practiced in New Jersey, is the determination of duties and responsibilities being performed at a given point in time as verified by this agency through an audit or other formal study. Thus, classification reviews are based on a current review of assigned duties and any remedy derived therefrom is prospective in nature since duties which may have been performed in the past cannot be reviewed or verified. Given the evolving nature of duties and assignments, it is simply not possible to accurately review the duties an employee may have performed six months ago or a year ago or several years ago. This agency's established classification review procedures in this regard have been affirmed following formal Civil Service Commission review and judicial challenges. See *In the Matter of Community Service Aide/Senior Clerk (M6631A)*, *Program Monitor (M62780)*, and *Code Enforcement Officer (M00410)*, Docket No. A-3062-02T2 (App. Div. June 15, 2004) (Accepting policy that classification reviews are limited to auditing current duties associated with a particular position because it cannot accurately verify duties performed by employees in the past). See also, *In the Matter of Engineering Technician and Construction and Maintenance Technician Title Series, Department of Transportation*, Docket No. A-277-90T1 (App. Div. January 22, 1992); and *In the Matter of Theresa Cortina* (Commissioner of Personnel, decided May 19, 1993).

Based upon a review of the information presented in the record, the appellant's position is appropriately classified as Technical Assistant 1, Civil Service Commission. Although the appellant objects to some of CPM's findings and argues that some of her duties were omitted from the determination, it should be noted that classification determinations typically list only those duties that are considered to be the primary focus of an appellant's duties and responsibilities that are performed on a regular, recurring basis. See *In the Matter of David Baldasari* (Commissioner of Personnel, decided August 22, 2006). In the instant matter, CPM determined that the appellant's position primarily performs technical duties supporting a particular organizational activity, the EAS, and oversees clerical staff. Thus, the preponderance of the appellant's duties is generally consistent with the definition section of the job specification for the title of Technical Assistant 1, Civil Service Commission, and the elaboration on her duties provided on appeal does not provide a basis to disturb that determination. The appellant's duties do not have as the primary focus the duties listed in the band summary section of the job specification for the Human Resource Consultant band. Moreover, all levels in the

Human Resource Consultant title series are expected to perform the breadth of duties for assigned jurisdictions, including layoff actions and classification reviews. *See In the Matter of Saheed Olushi* (CSC, decided April 6, 2011). As such, the appellant has not provided a sufficient basis on appeal to warrant classification of her position as a Human Resource Consultant.

Although the appellant also argues that her placement in the title of Technical Assistant 1, Civil Service Commission will require her to request another title in the future, the outcome of position classification is not to provide a career path to the incumbent, but rather to ensure the position was classified in the most appropriate title available within the State's classification plan. *See In the Matter of Patricia Lightsey* (MSB, decided June 8, 2005), *aff'd on reconsideration* (MSB, decided November 22, 2005). While the appellant further argues that she possesses the qualifications to hold a professional title, how well or efficiently an employee does his or her job, length of service and qualifications have no effect on the classification of a position currently occupied, as positions, not employees, are classified. *See In the Matter of Debra DiCello* (CSC, decided June 24, 2009). Accordingly, a review of the entire record establishes that the appellant's position is properly classified as Technical Assistant 1, Civil Service Commission.

As a final matter, there is no basis for an award of back pay based on duties performed prior to the effective date of reclassification determined by CPM since, as noted earlier, position classification is based on a determination of duties being performed at a given point in time as verified by this agency through an audit or other formal study and it is not possible to accurately review the duties an employee may have performed in the past. Therefore, the appellant is not entitled to back pay based on duties performed prior to the October 5, 2013 effective date of CPM's determination. However, the appellant would be entitled to differential pay from the October 5, 2013 effective date until the date she is placed in the appropriate title.

ORDER

Therefore, the proper classification of the appellant's position is Technical Assistant 1, Civil Service Commission.

It is ordered that the appointing authority take the necessary steps to effect the appointment of Laura Wilson to the title of Technical Assistant 1, Civil Service Commission effective October 5, 2013, or assign her duties commensurate with her permanent title of Secretarial Assistant 3 (Non-Stenographic). The appointing authority is further ordered to notify the Division of Agency Services within 30 days of the date of this decision as to how it is proceeding in compliance with this decision. Finally, it is ordered that the appointing authority pay the appellant

differential back pay from October 5, 2013 until the date she is placed in the appropriate title.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 1ST DAY OF APRIL, 2015

Richard E. Williams

Richard E. Williams
Member
Civil Service Commission

Inquiries
and
Correspondence

Henry Maurer
Director
Division of Appeals and Regulatory Affairs
Written Record Appeals Unit
Civil Service Commission
P.O. Box 312
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Attachment

- c. Laura Wilson
Ann McClaskey
Kenneth Connolly
Joseph Gambino



Chris Christie
Governor
Kim Guadagno
Lt. Governor

STATE OF NEW JERSEY
CIVIL SERVICE COMMISSION
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Robert M. Czech
Chair/Chief Executive Officer

May 19, 2014

Ms. Laura E. Wilson
Civil Service Commission
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Re: Classification Appeal
Secretarial Assistant 3, Non-Steno (24531c)

Dear Ms. Wilson:

This is to inform you and the Civil Service Commission, Division of Administration and Training, Employee Advisory Service, of the determination concerning your classification appeal. This determination has been established based on a thorough review and analysis of all information and documentation submitted, and a position audit conducted with you on March 13, 2014, and your supervisor, Shelby Pettis, conducted on March 19, 2014.

Issue:

The DPF-44 you submitted states that your current title is Secretarial Assistant 3, Non-Steno (24513c). You listed your working title as Administrative Assistant. It is assumed that you are referring to the "3" level, that is, Administrative Assistant 3 (59902).

Your immediate supervisor concurs with the description of duties listed on the DPD-44 you prepared, as does the Division Director.

The Division Director disagrees with the proposed title, Administrative Assistant, because the proposed title is part of an entitlement plan; an Assistant Director is not entitled to an Administrative Assistant.

Organization:

The position (043349) is located in the Civil Service Commission (CSC), Division of Administration and Training. The position reports to Shelby Pettis, Assistant Division Director.

The position is assigned to the Employee Advisory Service, responsible for providing professional referral services and counseling to State employees dealing with work or non-work related issues that may adversely impact work performance. The position is responsible for the assignment and review of work performed by two clerical staff members, Shaneka Ford and Valerie Cheek, but does not complete performance evaluations.

Review of Information on DPF-44:

On March 13, 2014, an on-site interview was conducted with you, and a separate interview was conducted with your direct supervisor, Shelby Pettis.

You were asked a series of questions during the course of the audit which were intended to confirm, clarify and/or elaborate on information provided in the DPF-44. Your responses are summarized as follows:

- You are assigned to an office of six employees: An Assistant Division Director, two clerical staff, yourself, and two counselors.
- You report to the Assistant Division Director, and assign and review the work of two clerical staff. Specifically, you assign phone answering duties, the entry of intake information, filing, typing of letters, preparation of case labels, and researching of information for counselors. You do not prepare performance evaluation documents.
- You assist with computer issues in the office and with counselor staff when they are in the field. This means you provide assistance to clerical staff in the operation of the computer when needed. You take calls from counselors in the field who are experiencing computer difficulties, and provide assistance and/or contact the CSC Help Desk as required.
- You formerly functioned as the principal assistant to the Office Manager, but you no longer perform this duty because no one was hired to replace the former Office Manager.
- You investigate administrative issues and assist in implementing improvement of office operations. You cited an example involving affiliate intake and billing, when the process was backlogged which delayed the timely billing of payment for services rendered. You designed a spreadsheet for internal use to keep track of intake and billing practices. You interact with CSC fiscal to answer billing questions and concerns.
- You interact with eight (8) affiliate counselors, and two (2) EAS counselors. Affiliate counselors are those whose services are subcontracted. You receive incoming calls for service which are referred to either the EAS or to the affiliate counselors. This involves dealing with the incoming caller (client) to respond to their questions, and other attendant matters such as determining whether the client is referred to an EAS or affiliate counselor, setting up the appointment, collecting intake information, making requisite arrangements with the client's employer (State agency), verifying whether client's insurance is accepted by the agency to which the client is referred, and ensuring that client files contain complete information.
- You arrange and meet with EAS affiliates annually to provide updates regarding EAS procedures, and any other noteworthy changes.
- You prepare Requests for Proposal (RFP's) to solicit counseling service providers. The RFP outlines the terms of the service agreement between the State and the service provider. You send out the RFP's to potential counselors. You review the submitted RFP to ensure it's complete. Your supervisor is responsible for making the final acceptance/rejection determination.

- You interact with clients whose needs are beyond the services provided by EAS counselors by reviewing the counselor's case notes, making arrangements for other treatment, and interacting with the client's Office of Human Resources. These include "fitness for duty" cases, that is, those referred by an employer questioning the client's ability to perform their job, or cases involving clients with substance abuse issues.
- You interact with employers seeking to refer clients for counseling services, and respond to their questions regarding the process.
- You work with fiscal contracts (contracts purchased by the employer to pay for counseling services provided to clients/employees). You gather information about the prospective employer interested in contracting for EAS services for their employees. You discuss the prospective employer's needs and projected frequency of service usage to provide them with recommendations regarding the type of EAS contract best suited to meet their needs.

Discussion:

During the course of the audit you were asked to explain why you consider the level of supervision you receive as "general". You indicated that you do not require close supervision, and determine your work priorities independently.

You were asked why you believe your current title is inappropriate, and indicated that your duties are beyond clerical in nature. When asked what duties fall outside the scope of your current title, Secretarial Assistant 3, Non-Steno, you mentioned the following: providing assistance to Shelby, providing oversight of clerical staff, following up with clients, intake duties, ensuring files are complete, particularly those involving clients with substance abuse/fitness for duty issues. When asked what you believe is the most critical function of your job, you indicated it's the oversight of clerical staff.

You were asked what prompted this desk audit, that is, what has changed about your job that led to this appeal. You responded that you've been performing these duties since 2007. You mentioned that you are aware of the ongoing promotional freeze which affects opportunities.

Your current role in the unit to which you are currently assigned can be divided into the following distinct parts: oversight of clerical staff, oversight of billing, and scheduling of appointments.

Your supervisor indicates that the services you provide to her are working with billing and the scheduling of counseling services.

Your supervisor was asked to comment on the statements made during the course of your interview, and how or whether your role has changed over the course of time.

- Noted changes include working with the vendor who designed the current database used to store EAS client information, and functioning as the "point" person for fellow staff members as you answer questions and resolve errors in data base information, and correct client information.

- You became involved with the RFP process when EAS was assigned to the Department of the Treasury; which required that the RFP process be utilized. The RFP process continues to be used, despite the fact that the EAS was reassigned to the CSC. Your responsibility involves the preparatory work in the RFP process, which includes ensuring the information provided by the counselor for the RFP is complete, all required documentation is provided, and sending out acceptance documentation.
- You prepare the duties information on the PAR documents for the two clerical staff assigned to your unit, but do not prepare the evaluation as your current title prohibits this.

You interact with clients and other involved entities during the EAS process as you gather intake information, assist clients with completing requisite paperwork, identify the reason why the clients seeks services, and facilitate necessary contacts with service providers and employers.

You have access to confidential and personal employee information, beyond the scope of salary. (Salary information for government employees is no longer confidential.)

Your supervisor confirmed that you determine your work priorities. Your primary role in the unit consists of coordinating office operations, and coordinating activities needed to facilitate counseling services for the clients as well as the activities needed to schedule and process affiliate services. This includes the activities and follow-up services needed to deal with clients referred to EAS for substance abuse testing, particularly those involved in patient care.

Review:

A Secretarial Assistant 3, Non-Stenographic (24531c) is an entitlement title, used to provide secretarial services to an Assistant Division Director or an organizational equivalent. Your current title appears to have been assigned pursuant to the CSC entitlement plan.

The requested title, Administrative Assistant 3, (59903) is also an entitlement title, that is, predicated solely on the level of the manager to whom the position is assigned. The CSC's entitlement plan does not permit for use of an Administrative Assistant 3 at the Assistant Director level. Thus, the CSC's position on your request for this title is correctly stated.

That being noted, the purpose of this review is to classify the duties presented on your DPF-44, and discussed with you and your supervisor.

A secretarial assistant or secretary is typically engaged in providing clerical support services to a manager or other administrator to whom the secretary reports. Such services may include but not be limited to gathering requested information, maintaining paper or electronic files, making arrangements to facilitate the manager's conduct of business, and preparing letters or other documents needed by the manager. A secretary could be expected to occasionally provide assignments and instruction to other clerical staff of the unit, and have interactions with other internal staff members and external constituents. However, the primary focus of a secretarial position is to provide services to directly support the work of a manager, administrator, or other staff member in a position of authority within the organization.

The role depicted in your DPF-44 and described by you during the course of the audit is unlike that of a typical "secretary"; your role appears to be more technical in nature. Your work efforts are not geared toward supporting the activities of an organizational manager, rather, the support

and oversight of an organizational activity, in this case, the Employee Advisory Service. Your role in providing work assignments and instructions to staff, as well as review of work completed by staff, is a primary responsibility performed on a regular basis, and is not an ancillary function.

Your supervisor confirmed that you work independently and that your duties are more technical than secretarial.

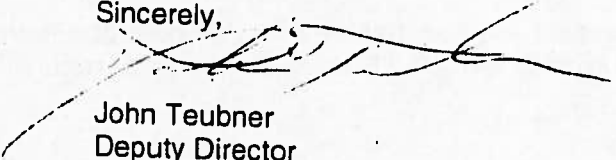
Determination:

From a classification perspective, the task information provided on the DPF-44, and tasks discussed during the course of the audit with you, and conversation with your supervisor, fall within the scope of duties classified by the title of Technical Assistant 1, Civil Service Commission (Y17-28235). This determination is based on the fact that you are responsible for the technical functions of a specific unit operation, rather than secretarial duties. You oversee the assignment and review of work to clerical staff, and exercise some level of independence in determining and executing your work priorities. This classification determination will permit for the oversight of staff, as well as the opportunity to gain supervisory experience.

The New Jersey Administrative Code 4A:3-3.5(c)1 states that: "within 30 days of receipt of the reclassification determination, unless extended by the Chair in a particular case for good cause, the Appointing Authority shall either effect the required change in the classification of an employee's position; assign duties and responsibilities commensurate with the employee's current title; or reassign the employee to duties and responsibilities to which the employee has permanent rights. Any change in the classification of a permanent employee's position, whether promotional, demotional or lateral, shall be effected in accordance with all applicable rules".

Please be advised that in accordance with N.J.A.C. 4A:3-3.9, you may appeal this decision within twenty (20) days of receipt of this letter. This appeal should be addressed to Written Records Appeal Unit, Division of Appeals and Regulatory Affairs, P.O. Box 312, Trenton, New Jersey 08625-1312. Please note that the submission of an appeal must include written documentation and/or argument substantiating the portions of the determination being disputed and the basis for the appeal.

Sincerely,



John Teubner
Deputy Director
Division of Classification & Compensation



Chris Christie
Governor
Kim Guadagno
Lt. Governor

STATE OF NEW JERSEY
CIVIL SERVICE COMMISSION
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Robert M. Czech
Chair/Chief Executive Officer

November 14, 2014

Ms. Laura E. Wilson
Civil Service Commission
P.O. Box 320
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Re: Classification Appeal
Secretarial Assistant 3, Non-Steno (24531c)

Dear Ms. Wilson:

This letter will serve as an addendum to my letter to you dated May 19, 2014, in which you were informed of the classification determination regarding your Position Classification Questionnaire and subsequent position audit conducted with you on March 13, 2014.

The audit results revealed your current duties were most appropriately classified by the title of Technical Assistant 1, Civil Service Commission (Y17-28235).

It is noted that the effective date was inadvertently omitted from the classification determination.

Please be advised that the effective date of determination is established as October 5, 2013, in accordance with Civil Service Commission regulations.

Sincerely,


John Teubner
Deputy Director
Division of Classification & Compensation

c. H. Sundar, DARA